

.. **T** .. Mobile



***Ex Parte* Presentation of
T-Mobile USA, Inc.**

**CG Docket No. 04-208
WT Docket No. 05-194
CC Docket No. 98-170**

Get more from life®

March 2006

Additional Consumer Regulation Is Unnecessary

NASUCA mischaracterizes complaint data

- **Number of complaints has been trending downward.**
 - Out of 204 million wireless subscribers in 2005, only 17,000 billing/contract complaints were lodged with the FCC -- compared to 18,000 complaints and 182 million subscribers the year before.
 - Total FCC wireless complaints declined by 12% from 2004 to 2005.
 - Total FCC wireless complaints were down 28% between 3rd and 4th quarters 2005; billing-related complaints fell by 24%.
- **Complaints as a percentage of wireless subscriber base is miniscule.**
 - 2005 billing/contract complaint rate was 0.008%.
 - 2005 total complaint rate was 0.01%.
 - NASUCA's reliance on number of billing-related complaints in comparison to total complaints is misplaced when both are insignificant figures.
- **Record flatly contradicts NASUCA's claims that additional billing regulation is warranted.**



Voluntary Industry Actions

CTIA Consumer Code

- **CTIA Code adopted by 30-plus carriers to ensure that industry is responsive to consumer demand for information and truthfulness.**
- **Requires accurate descriptions of charges on bills; separation of charges retained by carriers from taxes and fees remitted to government; cancellation period without payment of a fee; and POS disclosures of material rates, terms, and conditions.**
- **Wireless carriers have made significant changes to their systems to implement Code's requirements.**

Voluntary Industry Actions

T-Mobile's Personal Coverage Check

- T-Mobile takes disclosure seriously, offering potential customers their own Personal Coverage Check.



Data coverage is available in all areas except select roaming locations.

Map Legend

Great Good Fair None



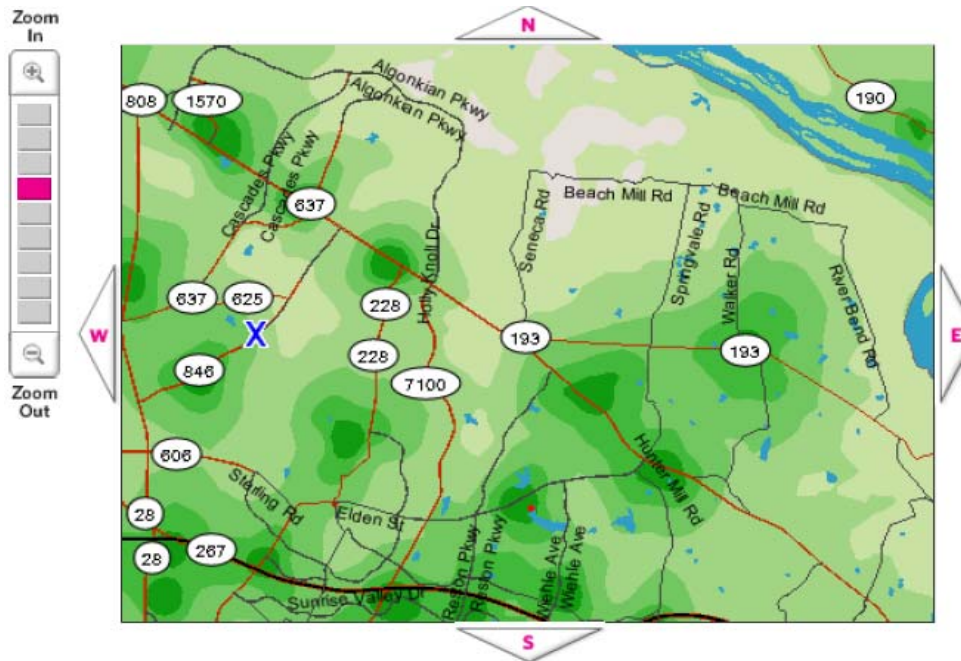
X Address Location

T-Mobile USA Roaming Coverage

T-Mobile Canada Roaming Coverage

T-Mobile Mexico Roaming Coverage

- Customers can determine whether coverage is adequate *before they buy*.



Mobile-to-mobile minutes and data services are not available in certain roaming areas included on T-Mobile's coverage maps.

Map Legend



- X Address Location
- 850 MHz Roaming Coverage
- T-Mobile USA Roaming Coverage
- T-Mobile Canada Roaming Coverage
- T-Mobile Mexico Roaming Coverage

State-by-State Billing Regulation Is Harmful To Consumers

NASUCA Mischaracterizes Burden

- **Commissioners from 11 states agree that a competitive “national regulatory framework will best serve consumers by ensuring inconsistent state regulations do not impede competition.” (1/23/06)**
- **State-by-state micromanagement is expensive for consumers.**
 - **Wireless carriers have to change systems and processes nationally to accommodate state rules.**
 - **Just two differing state regimes would require huge expenditures.**
- **Detailed state standards prevent carriers from differentiating themselves.**
 - **Particularly harmful to T-Mobile, which attracts and retains customers with excellent customer service.**
 - **Each consumer should be able to decide what service feature is most important.**

Pending State Attempts To Regulate Wireless

NASUCA mischaracterizes extent of state interest

Just a few examples of pending bills:

- **NY:** would require prospective customers to provide photo ID, and prohibit contracts as condition of service.
- **MA:** would proscribe charging for 800 calls or itemized bills, and require separate listing of taxes and fees.
- **MI:** would make contracts over 1 year unenforceable unless signed.
- **IL:** proposed detailed disclosure, font size, and reporting requirements.
- **AZ:** would mandate contract termination date on invoices.
- **GA:** would require all providers to offer non-contractual service plan.
- **IN:** would order comprehensive reports and disclosures on service quality, plans, and pricing.
- **Various states:** would implement trial periods ranging from 14-30 days.

The Commission Should Exercise its Conflict Preemption Authority

- **11 State Commissioners explain that preemption of state billing regulation will protect and benefit consumers by:**
 - Allowing efficiencies through centralization of billing functions
 - Eliminating confusion with respect to consumer rights
 - Permitting carriers to offer new and efficient billing plans
 - Promoting competition among wireless carriers
- **State regulation is contrary to Congress's intent that the wireless regulatory regime rely primarily on market forces.**
- **FCC has confirmed its authority to preempt when state's regulation of "other terms and conditions" impedes discernible federal objectives.**

State Enforcement of FCC TIB Rules is Impractical and Unwise

- **Allows state commissions to come to their own potentially differing legal conclusions about the permissibility of carrier actions.**
- **Unlike slamming regime, TIB rules are general guidelines -- one state may have vastly different interpretation of “misleading” than another.**
- **Each state commission would be able to create its own regulatory regime through disparate enforcement decisions.**
- **Could be unauthorized delegation to states.**
- **States will continue to play meaningful role through enforcement of generally applicable contractual and consumer protection laws.**

Early Termination Fees Are Rates

- **Wireless rate plans consist of numerous elements -- activation fees, monthly access, special features, local and long distance airtime, roaming charges, and early termination.**
- **Together these fees constitute the “price” charged for, and recover the costs of, providing wireless service.**
- **For term plans, the consumer agrees either to pay the monthly rate for the term or an ETF -- both are rates.**
- **How carriers describe ETFs in contracts is irrelevant to regulatory classification.**
- **All carrier rates and rate structures are designed to reduce “churn” as well as recover costs.**
- **T-Mobile permits post-paid customers to switch to less expensive rate plans without any fees/charges during the contract, which is essentially a form of a prorated ETF.**

ETFs Do Not Limit Consumer Choice

- **Wireless carriers offer pricing choices: term plans with discounted or free handsets and buckets of minutes, no-term plans, post-paid plans, and prepaid plans.**
- **Consumers have choice of multiple carriers and multiple ways to pay for wireless service.**
- **T-Mobile's prepaid plans, with reasonable rates and latest equipment, are widely available.**
- **ETFs allow consumers to spread cost of service across many months instead of full payment up front.**
- **Vast majority of consumers opt for term plans with ETFs.**
- **Lawsuits against T-Mobile are not disclosure cases, rather, they directly attack the reasonableness of ETFs.**

The FCC Can Grant Declaratory Relief

There are no material facts in dispute

- **AARP's characterization of CTIA's argument as factual assertion is misguided.**
- **Grant of CTIA Petition does not require FCC to develop record on specific costs each carrier recovers through ETFs.**
- **FCC need only look to previous decisions construing ETFs as rates and previous rulings regarding scope of section 332(c)(3)(A).**
- **Wireless Consumers Association acknowledges that CTIA's request turns on the law, not fact.**
- **FCC's task is to interpret statute, not become enmeshed in elaborate ratemaking case.**

State Regulation of ETFs Is Preempted Rate Regulation

- **Section 332(c)(3) bars state regulation of wireless rates.**
- **Regulation of ETFs -- including the amount charged and the conditions under which they may be imposed -- is rate regulation, not regulation of the “other terms and conditions” of wireless service.**
- **State-by-state rate regulation would have a chilling effect on network deployment, raise the cost of services, and divert funds that could be used to create additional products and services.**